

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 17 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations,
(Sebastian, Florida)

RM - _____

To: Chief, Allocations Branch
Policy & Rules Division, Mass Media Bureau

PETITION FOR RULE MAKING

T & M Communications ("T & M"), by Counsel, and pursuant to §1.401 of the Commission's Rules, hereby respectfully petitions the Commission to institute Rule Making proceedings for amendment of the FM Table of Allocations to add Channel 240C3 (95.9 MHz) to Sebastian, Florida, as its first aural facility, as follows:

<u>City / State</u>	<u>Existing</u>	<u>Proposed</u>
Sebastian, Florida	---	240C3

In support hereof, the following is shown:

Technical Criteria

1. Attached hereto as Exhibit A is an Engineering Statement prepared by R. Stuart Graham of Bromo Communications, Inc. wherein it is stated that Channel 240C3 may be allotted to the community of Sebastian, Florida in

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compliance with Section 73.207 of the Commission's Rules regarding current spacing requirements. According to the Engineering Statement, Channel 240C3 may be allotted to Sebastian without the imposition of a site restriction at reference coordinates North Latitude 27 - 49 - 00 and West Longitude 80 - 28 - 00. From this location, the 3.16 mV/m city-grade contour will encompass the entire city limits of Sebastian.

Community Status

2. Incorporated Town / Local Government: Sebastian is an incorporated community within Indian River County, Florida. Sebastian is a politically independent community since it has an independent elected government, the Sebastian City Council. The City Council is comprised of five elected officials, along with a non-elected City Manager. The current City Manager is Kay O'Halloran. The address of the City Council is: P.O. Box 780127, Sebastian, FL 32978. The telephone number of the City Council is: (407) 589-5330./¹

3. Defined Boundaries: Sebastian has defined boundaries, thus affording the town to be a geographically

¹ All of the population, governmental and cultural information presented in this Petition was secured from the Indian River County Chamber of Commerce, including their "County Profile" publication. The Chamber of Commerce may be reached at (407) 778-3181.

identifiable population group./² Attached hereto as Exhibit B is an excerpt of a map supplied by the Indian River County Chamber of Commerce wherein the Sebastian city limit boundaries are clearly marked.

4. Local Political, Social and Cultural Organizations:

Sebastian has its own Police Department, located at 1222 U.S. Highway 1, Sebastian, Florida (Telephone Number 407-589-5233). Also, Indian River County has established two separate Fire Department units in Sebastian, which are Station #8 (Telephone Number 407-589-0145) and Station #9 (Telephone Number 407-589-1617).

5. Sebastian is replete with popular retail outlets and businesses that identify with the town. For example, Sebastian's "Riverwalk Shopping Center" is home to such retail stores as Cover-Ups and Clothes For All Reasons. Keith's Oil Can has a facility in Sebastian. Hurricane Harbor Seafood House is located in Sebastian, as is the Davis House Bed & Breakfast Inn and Captain Hiram's Restaurant. Strunk Funeral Homes has a full-service funeral home in Sebastian. And, with respect to the professional community, Masteller & Moler, Inc. (engineering consultants), MGB Homes, Inc. (home contractors) and William J. McCormack, Jr. (physician) are located in Sebastian.

² See, *Beacon Broadcasting*, 63 RR 2d 794, 2 FCC Rcd 3469 (1987); *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 101 (1982).

6. Finally, the map attached hereto as Exhibit B denotes the locations of the Sebastian Municipal Airport, the Sebastian Municipal Golf Course, the Sebastian Elementary School, the Sebastian River Middle Junior High School, the proposed Sebastian River Senior High School, the Sebastian Community Center, and the Sebastian City Boat Ramp.

7. Sebastian's Population Growth: According to the U.S. Census Bureau, the population of Sebastian has skyrocketed since 1980. In 1980, 2,831 persons resided in Sebastian. According to the 1990 U.S. Census, the town now boasts a population of 10,205, which represents an increase of 260.5%. Also, Indian River County as a whole has witnessed a strong growth in population since 1980. In 1980, the U.S. Census tallied 59,896 residents in the county. According to the 1990 U.S. Census, the county population now stands at 90,208 -- a growth of 50.6% since 1980.

8. Based upon the foregoing, Sebastian is a community for FCC allotment purposes. See, e.g., *Hannibal, Ohio*, 6 FCC Rcd. 2144, 69 RR 2d 113 (MMB 1991).

Public Interest Showing

9. As stated in the Engineering Statement, there are no other aural facilities in Sebastian. The proposed channel would serve as the first aural outlet for Sebastian. Given

the growth in the community's population, Sebastian is deserving of its first aural facility.

Statement of Interest

10. T & M hereby expresses its intention to apply for Channel 240C3 at Sebastian, Florida, if that Channel is allotted by the Commission, and that further, if its Application is granted, to construct and operate that facility.

WHEREFORE, the above premises considered, T & M respectfully urges the Commission to GRANT the instant Petition, and to AMEND the Table of FM Allotments to specify Channel 240C3 at Sebastian, Florida.

Respectfully submitted,

T & M COMMUNICATIONS

By:


Cary S. Tepper

Its Attorney

Meyer, Faller, Weisman & Rosenberg
4400 Jenifer Street, N.W.
Suite 380
Washington, D.C. 20015

(202) 362-1100

December 17, 1993

EXHIBIT A

(Supporting Engineering Statement)

RULE MAKING REQUEST
NEW FM RADIO STATION
T & M COMMUNICATIONS
CHANNEL 240C3 - 95.9 MHZ
SEBASTIAN, FLORIDA
DECEMBER 1993

Technical Exhibit
TE-1

Bromo Communications, Inc.
P.O. Box 21760 - 1331 Ocean Boulevard, Suite 201
St. Simons Island, Georgia 31522
(912) 638-5608

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RULE MAKING REQUEST
NEW FM RADIO STATION
T & M COMMUNICATIONS
CHANNEL 240C3 - 95.9 MHz
SEBASTIAN, FLORIDA
DECEMBER 1993

This Technical Exhibit supports the request by T & M Communications ("T & M") to amend the Federal Communications Commission Table of Allotments, §73.202(b), to assign Channel 240C3 to Sebastian, Florida, as that community's first local broadcast allotment.

T & M notes that Sebastian is an incorporated community located in Indian River County with a 1990 population of 10,205 persons according to the United States Census. This represents an increase of 7,374 persons from 1980 to 1990. Sebastian qualifies as a bonafide community under FCC rules in that it has an elected city government, provides police and fire protection, has a post office, local schools, a library and offers other essential public services to its residents. There are, at present, no other broadcast facilities (AM, FM or Television) licensed to Sebastian.

The reference coordinates for Sebastian and this proposal, North Latitude 27° 49' 00" and West Longitude 80° 28' 00", are taken from "The American Atlas - Revised". At these reference coordinates, Channel 240C3 (95.9 MHz) is clear of all restrictions and spacings to operating or proposed FM broadcast facilities. Further, at this location a

maximum Class C3 facility operating on 95.9 MHz will provide all of Sebastian with the required 3.16 mV/m (70 dBu) signal for coverage to the city of license. Although Sebastian is located in the recently created Vero Beach Urbanized Area, this community is an incorporated town which existed prior to the creation of this Urbanized Area.

It is, therefore, proposed by T & M Communications that the FCC amend §73.202(b) of the rules as follows:

SEBASTIAN, FLORIDA

Present

Proposed

None

240C3

When Channel 240C3 is allotted to Sebastian, T & M will file an application for construction permit for 240C3 as proposed above and, if granted, will proceed timely to initiate service to Sebastian.

All information contained in this Rule Making Request is true and accurate to the best of our belief and knowledge. Should any questions arise during its review, we would be happy to discuss the matter by phone at (912) 638-5608. All the data used in the preparation of this request was valid as of this writing. We assume no responsibility for database errors or omissions which are beyond our control and which may impact the request outlined herein.

RULE MAKING REQUEST
NEW FM RADIO STATION
T & M COMMUNICATIONS
CHANNEL 240C3 - 95.9 MHz
SEBASTIAN, FLORIDA
DECEMBER 1993

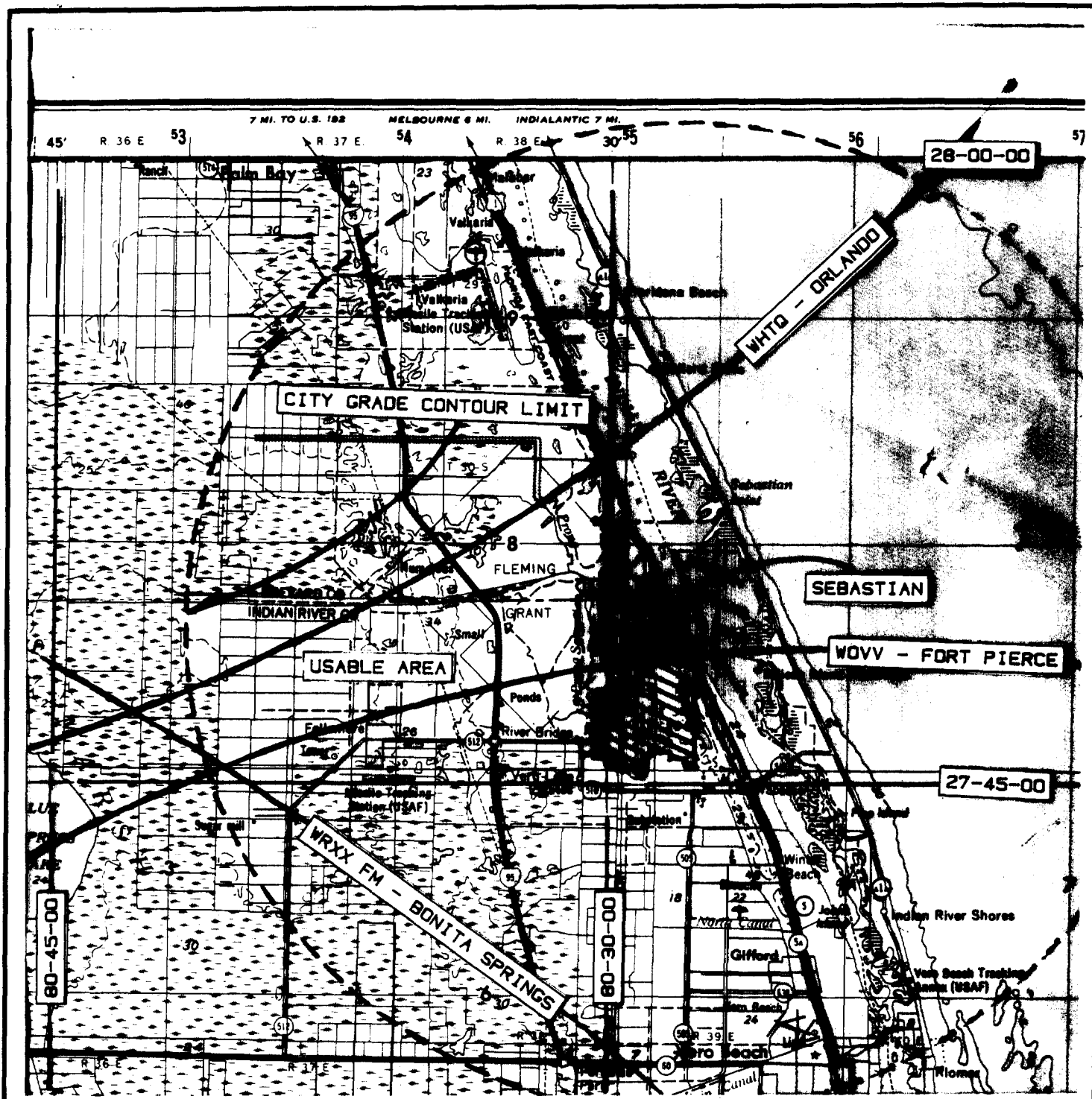
EXHIBIT #1

ALLOCATION CLEARANCE COMPUTER STUDY

REFERENCE		DISPLAY DATES
27 49 00 N	CLASS C3	DATA 10-28-93
80 28 00 W	Current rules spacings	SEARCH 12-14-93
----- CHANNEL 240 - 95.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)

WOVV	238C1	Fort Pierce	FL	174.3	77.33	76.0	1.33 <
LI CN	27 07 20	80 23 21	100.000 kW	299M	48.1	47.2	
	Arduan Broadcasting Corporati				BLH871112KB		
WHTQ	243C	Orlando	FL	324.8	103.66	96.0	7.66
LI CN	28 34 51	81 04 32	100.000 kW	487M	64.4	59.7	
	TK Communications, Inc.				BLH850513KL		
WRXKFM	241C	Bonita Springs	FL	216.8	192.78	176.0	16.78
LI CY	26 25 22	81 37 49	100.000 kW	341M	119.8	109.4	
	Beasley B/Cstng of Western of				BLH900207KD		



240C3 ALLOCATION CLEARANCE MAP

MAP IS A PORTION OF THE USGS 250,000 SCALE
TOPOGRAPHIC MAP 'FORT PIERCE, FLORIDA'

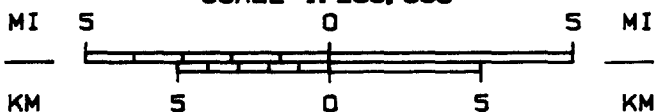
ALLOCATION REFERENCE COORDINATES:
NORTH LATITUDE 27-49-00
WEST LONGITUDE 80-28-00

EXHIBIT #2

T & M COMMUNICATIONS
NEW FM ALLOCATION PROPOSAL
CHANNEL 240C3 - 95.9 MHz
SEBASTIAN, FLORIDA

DECEMBER 1993

SCALE 1:250,000



BROMO
COMMUNICATIONS

St Simons Island, Georgia

BROADCAST
TECHNICAL CONSULTANTS

Washington, D.C.

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

State of Georgia)
St. Simons Island)
County of Glynn)

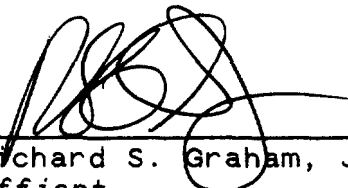
ss:

RICHARD S. GRAHAM, JR. being duly sworn, deposes and says that he is an officer of Bromo Communications, Inc. Bromo has been engaged by T & M Communications to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He is a graduate of Auburn University and has been active in broadcast engineering since 1972.

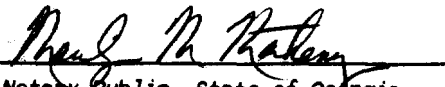
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 14th day of December, 1993.



Richard S. Graham, Jr.
Affiant

Sworn to and subscribed before
me this the 14th day of December, 1993



Notary Public, State of Georgia
My Commission Expires: September 8, 1995

EXHIBIT B

(Map Excerpt)

SCALE
0 1/4 1/2 3/4 1 MI

E M	SCHOOLS	MO	EST
	Wagon Wheel	10	1-10
	Chico Elem	10	1-10
	Chaparral Elem	8	1-4
	Chico	8	1-8
	Griffith Middle Seven	7	1-12
	Griffith Middle Six	7	1-10
	Griffith Middle Six	17	1-17
	Holbrook Elem	21	1-21
	Highway News Community		
	College (Junior) City	14	0-16
	J.A. Thompson Elem	20	1-20
	Chico	18	1-18
	Palm Springs Elem	3	1-8
	Redwood Elem	13	1-16
	Chico	1	1-6
	Situation River Middle Jr		
	10	2	C-7
	Situation River Sr H		
	(Proposed)		
	St. George Lower	22	C-8
	School		
	St. George Upper	10	1-16
	Summit		
	Vero South Elem	10	1-19
	Vero South H	10	1-17
	Vero South H	12	1-16
	Vero South Sr H	10	1-17
	Webster Elementary Bch.	4	1-8

1958
1958 1958

328

CITRUS HIDEAWAY

PALM PARA

INDIAN RIVER HIGHLANDS